

MONTANA LEGISLATIVE HISTORY

Chapter 438 19 89

Bill H 649 S _____ Original bill & history C

H. Committee on Local Government

S. Committee on Judiciary

Hearing Date(s) Feb 16 ☒ C

Hearing Date(s) Mar 20 ☒ C

_____ ☐ C

_____ ☐ C

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_____ ☐ C

_____ ☐ C

Date Out Feb 17 ☒ C

Mar 20 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE FINAL STATUS

3/28	2ND READING CONCURRED	50	0
3/29	3RD READING CONCURRED	40	9
	RETURNED TO HOUSE WITH AMENDMENTS		
3/31	2ND READING AMENDMENTS CONCURRED	89	3
4/01	3RD READING AMENDMENTS CONCURRED	86	7
4/06	SIGNED BY SPEAKER		
4/07	SIGNED BY PRESIDENT		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 511	EFFECTIVE DATE:	4/12/89
HB 648 INTRODUCED BY COBB			
	REVISE PROVISIONS CONCERNING PERSONNEL		
	CLASSIFICATION AND COMPENSATION FOR		
	STATE EMPLOYEES		
	BY REQUEST OF DEPARTMENT OF ADMINISTRATION		
2/10	INTRODUCED		
2/11	REFERRED TO APPROPRIATIONS		
2/13	FISCAL NOTE REQUESTED		
2/18	FISCAL NOTE RECEIVED		
2/22	FISCAL NOTE PRINTED		
3/02	HEARING		
3/09	HEARING		
3/16	HEARING		
3/20	HEARING		
3/22	TABLED IN COMMITTEE		
HB 649 INTRODUCED BY KOEHNKE			
	INCREASE THE AMOUNT OF A CLAIM THAT CAN BE BROUGHT		
	IN SMALL CLAIMS COURT		
2/11	INTRODUCED		
2/13	REFERRED TO LOCAL GOVERNMENT		
2/16	HEARING		
2/17	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/20	2ND READING PASSED	88	7
2/21	3RD READING PASSED	90	9
	TRANSMITTED TO SENATE		
2/28	REFERRED TO JUDICIARY		
3/20	HEARING		
3/20	COMMITTEE REPORT--BILL CONCURRED		
3/21	2ND READING CONCURRED	49	0
3/23	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/29	SIGNED BY SPEAKER		
3/29	SIGNED BY PRESIDENT		
3/30	TRANSMITTED TO GOVERNOR		
4/04	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 438	EFFECTIVE DATE:	10/01/89
HB 650 INTRODUCED BY SWYSGOOD			
	AUTHORIZE IRRIGATION DISTRICT SUBDISTRICTS		
2/11	INTRODUCED		
2/13	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.		
2/14	FISCAL NOTE REQUESTED		

Rep. Hansen asked Mr. Robertson about the question of selling of parts. Mr. Robertson said that when the fund was started the State did not want to be in competition with private enterprise and not sell parts. It is in the code presently that parts cannot be sold.

Rep. Darko asked Mr. Robertson if he knew of any attempts to alter that rule in the past. Mr. Robertson was not aware of any attempts. They have not been able to figure out a way to recycle the vehicles and still be in compliance with the law.

Rep. Darko asked how this bill would help or hurt most counties. Mr. Robertson stated that with this bill the county would operate with the money that they collect so many counties would only receive \$600 per year and would be extremely hurt by this bill.

Closing by Sponsor: Rep. Campbell stated that most counties would receive up to 30% more in administrative savings. He does not object to amendments but felt the bill would be successful depending on how aggressive the county chose to be in picking up junk vehicles.

HEARING ON HOUSE BILL 649

Presentation and Opening Statement by Sponsor:

Rep. Francis Koehnke, District 32, stated that this bill would simply increase the amount of claims that can be brought before Small Claims Court from \$1500 to \$2500.

Testifying Proponents and Who They Represent:

Charles Brooks, Montana Retail Association
Ray Brandwein, Montana Independent Bankers
Bill Leary, Montana Bankers Association
Kyle Peck, Valley Bank, Helena

Proponent Testimony:

Charles Brooks stated that the small retailer carries open 30 day accounts and sometimes these accounts get long overdue. Increasing the amount that can be brought before the Small Claims Court would save these retailers lawyer fees and other expenses relating to collecting these accounts in other ways. Buck Boles of the Montana Chamber of Commerce also asked Mr. Brooks to convey to the committee his support of this bill.

Ray Brandewie stood in support of this bill.

Bill Leary stated that this bill would benefit small banks. It is an efficient way of collecting on small accounts without much expense.

Kyle Peck stated that he supports this bill because many of their delinquent accounts are collectable and people tend to pay immediately when faced with the prospect of going to Small Claims Court.

Testifying Opponents and Who They Represent: None

Opponent Testimony: None

Bernard McCarthy, Justice of the Peace, Lewis & Clark County, stated that he neither supports nor opposes this bill. Initially, they opposed the bill but then realized that the bill would not accomplish anything because the bill is directed to small claims courts established by District Courts and to his knowledge there are no such courts in Montana. If this bill were amended to affect small claims courts in justice courts then he opposes the bill because jurisdiction for civil matters in justice court now rest at \$3500. To amend to \$2500 raises some concerns about the split (\$1000).

Questions From Committee Members: Rep. Hoffman asked Rep. Koehnke if the bill as written would accomplish his purpose. Rep. Koehnke responded that it did not accomplish his purpose.

Rep. Good asked Lee to explain. Lee said he thinks Mr. McCarthy is right and that the bill is aimed at the wrong place.

Rep. Brooke asked Mr. McCarthy if the bill was changed addressing it to the small claims court of the justice court, why did he oppose it. Mr. McCarthy stated that most district courts will not take claims under \$3500. In district court people they are entitled to other expenses. There are two divisions of justice court - one handles claims up to \$1500 and the other division handles from \$1501 to \$3500. The small claims procedure is designed to benefit the small person (the individual) the ability to go to court and be heard. In Montana it is not the individual that is benefitting, but businessmen who can afford to collect in other manners. Raising the jurisdiction will encourage more banks, more corporations to file in small claims. Expanding the jurisdiction to \$3500 draws the court further away from its original intent.

Closing by Sponsor: Rep. Koehnke stated that he did not realize that the wrong court was cited in the bill but he still believes that \$2500 is not too much to be able to take to small claims court.

DISPOSITION OF HOUSE BILL 649

Motion: Rep. Rehberg moved HB 649 DO PASS. Rep. Wyatt seconded.

Discussion: Rep. McDonough presented amendments to the bill that would amend it to the intent of the bill. It was not Rep. Koehnke's fault that the bill was improperly drafted.

Rep. Hoffman asked why there were no small claims courts in district court. Lee explained that technically there is a small claims division of district court and there is also the small claims court of justice court. There are no small claims courts in the district court system.

Rep. Stickney asked for clarification of the objection on the amount. Lee explained that justice court has a civil jurisdiction of \$3500. If a person is suing for \$3500 or less then it must be filed in justice court but there is attorneys involved. Presently, any cases under \$1500 do not require an attorney and this bill would raise this limit to \$2500 which leaves \$1000 difference. Attorneys would not be required under \$2500 and anything over \$3500 would be in district court.

Rep. McDonough rose in opposition because organizations that are favoring the raising of the amount have lawyers on retainers that actually draw up the documents but just don't present them. The person who cannot afford a lawyer to respond to these documents is at a distinct disadvantage and by raising the limits the stakes are being raised for them.

Rep. Dave Brown concurred with Rep. McDonough's position. The point is for a citizen to be able to fight his own case. The banks, landlords and others are using it as a collection agency.

Rep. Wallin agreed but felt it was a two way street and it is saving customers in the long run from paying higher fees.

Rep. Good stated that the larger court system is so clogged that by raising the limit it might alleviate some of that by putting more claims in justice court.

Rep. Gould stated that this raise is reasonable.

Amendments, Discussion, and Votes: Rep. McDonough moved to amend according to Rep. Koehnke's intentions. Rep. Wyatt seconded. The amendments CARRIED unanimously.

Recommendation and Vote: Rep. Brooke moved to TABLE HB 649. Rep. Wyatt seconded. A roll call vote was taken and the motion FAILED. Rep. Good moved DO PASS AS AMENDED. Rep. Wyatt seconded. The motion CARRIED on a roll call vote.

DAILY ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

DATE 2/16/89

NAME	PRESENT	ABSENT	EXCUSED
BROOKE, VIVIAN	X		
BROWN, DAVE	<i>lately</i>		X
BROWN, JAN	X		
DARKO, PAULA	X		
GOOD, SUSAN	X		
GOULD, BUDD	X		
GUTHRIE, BERT	X		
HANSEN, STELLA JEAN	X		
HOFFMAN, ROBERT	X		
JOHNSON, JOHN	X		
MCDONOUGH, MARY	X		
NELSON, THOMAS	X		
REHBERG, DENNIS			X
STICKNEY, JESSICA	X		
WALLIN, NORM	X		
WYATT, DIANA	X		

ROLL CALL VOTE

LOCAL GOVERNMENT

COMMITTEE

DATE 2/16/89 BILL NO. TABLE HB 649 NUMBER

NAME	AYE	NAY
GOOD, SUSAN		X
GOULD, BUDD		X
GUTHRIE, BERT		X
HOFFMAN, ROBERT		X
NELSON, THOMAS	X	
REHBERG, DENNIS		X
WALLIN, NORM		X
BROOKE, VIVIAN	X	
BROWN, DAVE	X	
BROWN, JAN		X
HANSEN, STELLA JEAN		X
JOHNSON, JOHN		X
MCDONOUGH, MARY	X	
STICKNEY, JESSICA	X	
WYATT, DIANA	X	
DARKO, PAULA	X	

TALLY

Tami Dore
Secretary

Paula A. Darko
Chairman

Motion: Rep. Brooke moved to TABLE HB 649. Rep. Wyatt seconded.

The motion FAILED 9 to 7.

ROLL CALL VOTE

LOCAL GOVERNMENT

COMMITTEE

DATE

2/16/89

BILL NO.

DPH 649

NUMBER

NAME	AYE	NAY
GOOD, SUSAN	X	
GOULD, BUDD	X	
GUTHRIE, BERT	X	
HOFFMAN, ROBERT	X	
NELSON, THOMAS	X	
REHBERG, DENNIS	X	
WALLIN, NORM	X	
BROOKE, VIVIAN		X
BROWN, DAVE		X
BROWN, JAN	X	
HANSEN, STELLA JEAN	X	
JOHNSON, JOHN	X	
MCDONOUGH, MARY		X
STICKNEY, JESSICA		X
WYATT, DIANA		X
DARKO, PAULA		X

TALLY

10 6

Secretary

Chairman

Motion: Rep. Good moved DO PASS AS AMENDED. Rep. Wyatt

seconded. Motion carried 10 to 6.

STANDING COMMITTEE REPORT

February 17, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that HOUSE BILL 649 (first reading copy -- white) do pass as amended .

Signed: _____
Paula Darko, Chairman

And, that such amendments read:

1. Title, line 8.
Following: "SECTIONS"
Insert: "3-10-1004,"

2. Page 1.

Following: line 12

Insert: "Section 1. Section 3-10-1004, MCA, is amended to read:

"3-10-1004. Jurisdiction -- removal from district court. (1) The small claims court has jurisdiction over all actions for the recovery of money or specific personal property when the amount claimed does not exceed ~~\$1,500~~ \$2,500, exclusive of costs, and the defendant can be served within the county where the action is commenced.

(2) A district court judge may require any action filed in district court to be removed to the small claims court if the amount in controversy does not exceed ~~\$1,500~~ \$2,500. The small claims court shall hear any action so removed from the district court.""

Renumber: subsequent sections

Local Government

BILL NO. 649

DATE 4/6/87

SPONSOR Kochake

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

DISPOSITION OF HOUSE BILL 534

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Pinsoneault MOVED that House Bill 534 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

HEARING ON HOUSE BILL 649

Presentation and Opening Statement by Sponsor:

Representative Francis Koehnke of Townsend, House District 32, opened the hearing. He said the bill was to increase from \$1500 to \$2500 the amount of a claim that could be brought into small claims court. Small claims court was started in Montana in 1975 and, since then, there has been inflation. This will be a more realistic amount, he said. He urged passage of the bill.

List of Testifying Proponents and What Group they Represent:

Charles Brooks, Montana Retail Association, Montana Hardware Implement Dealers, Montana Tire Dealers, Montana Office Equipment Dealers
Don Ingels, Montana Chamber of Commerce
Bill Kearns, State Bank of Townsend
Bill Leary, Montana Banking Association

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Charles Brooks supported the bill. He said the legislation would give his industry an opportunity to be cost effective in settling claims which seem to be continually increasing in number and in size. A few weeks ago an implement dealer called asking about small claims procedures and the limits that were established, he said. Because the claim was \$2200, it couldn't be settled in small claims court. He felt the raise in the limit would be good for both business and the public.

Don Ingels spoke in support of the bill.

Bill Kearns felt this would give greater access to the judiciary system.

Bill Leary supported the bill, saying it would particularly help the smaller banks.

Questions From Committee Members: Senator Halligan asked if anyone in the House had suggested raising the limit higher than \$2500. Rep. Koehnke said no.

Senator Yellowtail asked how many claims would be moved to the small claims court because of the raise. Rep. Koehnke said he had no idea.

Senator Mazurek wondered why the Magistrates of the state hadn't taken a stand on the bill. Wallace Jewell, lobbyist for the Montana Magistrates, said he was told not to comment on the bill. He felt they opposed the bill, he said. He said this bill, as drafted by the Law School, would affect the small claims courts of district court of which there are none in the entire state. When the hearing was held in the House in State Administration and Local Government committees, the Magistrates had a problem -- they didn't know whether to keep quiet and do nothing, or to let the committees know the problem. He said there was little difference between Justice court and Small Claims Court regarding the handling of these claims.

Closing by Sponsor: Rep. Koehnke said it would vary from county to county, but he felt the bill could relieve other courts. He closed the hearing.

DISPOSITION OF HOUSE BILL 649

Discussion: Discussion brought up the opposition of the Magistrates to the bill.

Senator Beck asked how many small claims courts existed and Senator Halligan said every justice's court was one.

Amendments and Votes: None

Recommendation and Vote: Senator Jenkins MOVED that House Bill 649 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

SENATE STANDING COMMITTEE REPORT

March 20, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HR 649 (third reading copy -- blue), respectfully report that HR 649 be concurred in.

Sponsor: Koebele (Yellowtail)

BE CONCURRED IN

Signed: _____
Bruce D. Crippen, Chairman

4/2/89
3:30 PM

